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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,368	03/01/2002	Reza Shahidi	4740-109	3404

24112 7590 02/05/2004
COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

EXAMINER

LELE, TANMAY S

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 02/05/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,368

Applicant(s)

SHAHIDI ET AL.

Examiner

Tanmay S Lele

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-51 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- Group I (Claims 1 –10; 19 – 28): Power control commands where the step size of the power adjustment is varied based on transmit and reference powers.
- Group II (Claims 1, 11 – 17, 19, 29 –34): Power control commands where the adjusting reference is based on frame error reports.
- Group III (Claims 1, 18, 19, 35, 36, 43, 44, 47, 48, 51): Power control based on number of error frames since the last report.
- Group IV (Claims 36 – 42, 44 – 46, and 48 – 50): Power control based on a report over an interval and predetermined time period.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 19, 36, 44, and 48 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. A telephone call was made to Mr. David Bennet (Registration Number 32,194) on 23 January 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanmay S Lele whose telephone number is (703) 305-3462. The examiner can normally be reached on 9 - 6:30 PM Monday – Thursdays and on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay A. Maung can be reached on (703) 308-7745. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

✓
Tanmay S Lele
Examiner
Art Unit 2684


NAY MAUNG
SUPERVISORY PATENT EXAMINER

tsl
January 28, 2004

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/06693

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 5 893 035 A (CHEN TAO) 6 April 1999 (1999-04-06)	11, 18, 29, 35, 43, 47, 51
A	abstract	1-10, 12-17, 19-28, 30-34, 36-42, 44-46, 48-50
A	column 2, line 38 -column 4, line 54 --- US 5 884 187 A (TIEDEMANN JR EDWARD G ET AL) 16 March 1999 (1999-03-16) column 17, line 45 -column 18, line 11 abstract column 22, line 53 -column 23, line 30 column 29, line 2-35 ---	1-51
A	EP 1 069 702 A (LUCENT TECHNOLOGIES INC) 17 January 2001 (2001-01-17) abstract -----	1-51

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/06693

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 H04B7/005

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 H04B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 99 52310 A (NOKIA TELECOMMUNICATIONS OY ; SALONAH O OSCAR (FI)) 14 October 1999 (1999-10-14)	1-8, 19-27, 36, 37, 44, 45, 48, 49
Y	abstract	11, 18, 29, 35, 43, 47, 51
A	page 1, line 14-30 page 2, line 1-26 page 3, line 28 -page 4, line 20 page 5, line 13 -page 8, line 15 figures 3-5	9, 10, 12-17, 28, 30-34, 38-42, 46, 50
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☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents:

A document defining the general state of the art which is not considered to be of particular relevance

E earlier document but published on or after the international filing date

L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

O document referring to an oral disclosure, use, exhibition or other means

P document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

& document member of the same patent family

Date of the actual completion of the international search

6 September 2002

Date of mailing of the international search report

10/04/2003

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
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Authorized officer

Helms. J

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. Claims: 1-10, 19-28

Independent claim 1 relates to a method of controlling transmit powers at a plurality of base stations during a soft handoff, wherein the base stations adjust the transmit powers responsive to power commands from the mobile station and the step size of the power adjustments is a function of the current transmit powers and a common reference power which is adjusted based on power measurement reports from the mobile station.

Independent claim 19 relating to a wireless communication network is the corresponding apparatus claim to method claim 1.

Claim 2 depending on claim 1 and claim 20 depending on claim 19 state that the step size variation of the power adjustment is based on a difference between the current transmit power of the base station and the common reference power.

2. Claims: 11-17, 29-34

Claim 11 depending on claim 1 and claim 29 depending on claim 19 state that the adjustment of the common reference power based on reported frame errors at the mobile station comprises adjusting the common reference power upward if the mobile station send a frame error report.

3. Claims: 18, 35

Claim 18 depending on claim 1 and claim 35 depending on claim 19 state that the power measurement report from the mobile station includes the number of error frames since the last power measurement report.

4. Claims: 36-51

Independent claims 36, 44 and 48 relate to a method, a base station controller and a processor, respectively, for controlling a common reference power used by a plurality of base stations during a soft handoff to vary the step size of forward link transmit power adjustments.